

TARGETED MARKET CONDUCT EXAMINATION REPORT
AS OF DECEMBER 31, 2004

Allstate Insurance Company
2775 Sanders Road
Northbrook, IL 60062-6127

NAIC Company Code 19232

EXAMINATION PERFORMED BY
DIVISION OF INSURANCE STAFF
COLORADO DEPARTMENT OF REGULATORY AGENCIES
STATE OF COLORADO

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2775 Sanders Road
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**Examination Performed by
Jeffory A. Olson, CIE, FLMI, AIRC, ALHC
David M. Tucker, AIE, FLMI
Paula M. Sisneros, AIS
John Bell**

State Market Conduct Examiners

July 29, 2005

The Honorable David Rivera
Commissioner of Insurance
State of Colorado
1560 Broadway, Suite 850
Denver, Colorado 80202

Commissioner:

This targeted market conduct examination of Allstate Insurance Company (the Company) was conducted pursuant to Sections 10-1-203 and 10-3-1106, Colorado Revised Statutes, which authorizes the Insurance Commissioner to examine property and casualty insurance companies. We examined the Company's records at its Englewood office located at 10800 East Geddes Avenue – Suite 200, Englewood, Colorado 80112. The market conduct examination covered specific file handling during the period of January 1, 2003, through December 31, 2004.

The following market conduct examiners respectfully submit the results of the examination.

Jeffory A. Olson, CIE, FLMI, AIRC, ALHC

David M. Tucker, AIE, FLMI

Paula M. Sisneros, AIS

John Bell

**MARKET CONDUCT
EXAMINATION REPORT
OF
ALLSTATE INSURANCE COMPANY**

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COMPANY PROFILE

The Company provided the following history:

Allstate Insurance Company was incorporated on February 9, 1931 and began business on April 17, 1931. Allstate Insurance Company (AIC) is an Illinois domiciled insurer licensed to write property and casualty business in 49 states, the District of Columbia, Canada and Puerto Rico and offers a broad range of personal and commercial insurance products including reinsurance. AIC's affiliated property and casualty insurers included in its combined statement, are, but not limited to, Allstate Indemnity Company and Allstate Property and Casualty Insurance Company.

The lead company in the group is Allstate Insurance Company, which writes various personal and commercial insurance lines of insurance throughout the United States and in Canada. The group's countrywide mix of business is split approximately 91 percent personal lines and 9 percent commercial lines. Primary lines of business are private passenger automobile insurance (73 percent of total writings) and homeowners insurance (18 percent of total writings). The group has a countrywide market share of 12.1 percent of private passenger automobile writings and 11.8 percent of homeowners insurance writings.

Allstate Insurance Company has approximately 13,000 agents across the country. Allstate also has approximately 3,600 independent agents selling its products. Allstate Insurance Company has 13 regional offices located throughout the United States and 250 market claim offices.

The Western Central Regional Office in Denver, Colorado supports the Colorado operations of Allstate Insurance Company, Allstate Indemnity Company, Allstate Property and Casualty Insurance Company. Field Risks, Agency Support, Human Resources and Customer Retention are handled out of the Regional location. Filing and rating is accomplished at both the Regional and Home Office levels.

PURPOSE AND SCOPE OF EXAMINATION

State market conduct examiners with the Colorado Division of Insurance (DOI), in accordance with Colorado insurance law, sections 10-1-201, 10-1-203, 10-1-204 and 10-3-1106, C.R.S., that empowers the Commissioner to require any company, entity, or new applicant to be examined, reviewed certain business practices of Allstate Insurance Company. The findings in this report, including all work products developed in producing it, are the sole property of the Colorado Division of Insurance.

The purpose of the targeted examination was to determine the Company's compliance with Colorado insurance law and with generally accepted operating principles related to automobile insurance companies. This targeted examination was triggered by an investigation conducted by Colorado Division of Insurance staff investigators as a result of a complaint that the Company was inappropriately delaying the payment of personal injury protection (PIP) claims without providing the required notice and explanation of why the claims were delayed. Information provided by the Company indicated the claims in question were all related to a Special Investigation's Unit (SIU) investigation of possible fraud by a medical provider.

The preliminary findings from the investigation indicated a need for a more in-depth review of certain PIP files to determine if the Company was in compliance with Colorado insurance law. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report.

Examiners conducted the examination in accordance with procedures developed by the Colorado Division of Insurance, based on model procedures developed by the National Association of Insurance Commissioners. They relied primarily on records and materials maintained by the Company. All of the documents reviewed during this examination were provided by the Company in paper form. The limited market conduct examination covered the period from January 1, 2003, through December 31, 2004.

The examination included review of the following:

Personal Injury Protection (PIP) Claims Handling

The final exam report is a report written by exception. References to additional practices, procedures, or files that did not contain improprieties, were omitted. Based on review of these areas, comment forms were prepared for the Company identifying any concerns and/or discrepancies. The comment forms contain a section that permits the Company to submit a written response to the examiners' comments.

For the period under examination, the examiners included statutory citations and regulatory references as they pertained to automobile insurance companies. Examination findings may result in administrative action by the Division of Insurance. Examiners may not have discovered all unacceptable or non-complying practices of the Company. Failure to identify specific Company practices does not constitute acceptance of such practices. This report should not be construed to either endorse or discredit any automobile insurance company.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero dollar (\$0) tolerance level was applied in order to identify possible system

errors. Additionally, a zero dollar (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines.

A minimum error tolerance level of five percent (5%) was established to determine reportable exceptions. However, if an issue appeared to be systemic, a minimum error tolerance percentage was not utilized.

EXAMINERS' METHODOLOGY

The examiners reviewed the Company's business practices to determine compliance with Colorado insurance laws and Colorado regulations. For this examination, special emphasis was given to the laws and regulations as shown in Exhibit 1.

Exhibit 1

Law/Regulation	Concerning
Section 10-1-101-10-1-130	General Provisions
Section 10-1-203	Authority, scope, and scheduling of examinations.
Section 10-1-204	Conduct of Examinations.
Section 10-2-1005	Duties of insurers.
Section 10-3-109	Reports, statements, assessments, and maintenance of records – publication – penalties for late filing, late payment or failure to maintain.
Section 10-3-535	Proof of claim.
Section 10-3-1101-10-3-1104.5	Unfair Competition - Deceptive Practices
Section 10-4-708	Prompt payment of direct benefits
Regulation 1-1-4	Maintenance of Offices in this State
Regulation 1-1-7 (Revised)	Market Conduct Record Retention
Regulation 1-1-8	Penalties and Timelines Concerning Division Inquires and Document Requests
Regulation 5-2-8	Timely Payment of Personal Injury Protection Benefits

Claims

The examiners reviewed twenty-nine (29) claim files for compliance with statutory requirements and contractual obligations. The list of these twenty-nine (29) files was provided by the Company. Each of these files involved personal injury protection benefits and a request for payment for services from particular providers. The examiners only reviewed those items in the claim file that related to bills submitted by and/or paid to this specific provider during the calendar year January 1, 2003 to December 31, 2004.

EXAMINATION REPORT SUMMARY

The examination resulted in a total of three (3) findings in which the Company did not appear to be in compliance with Colorado Statutes and Regulations. The following is a summary of the examiners' findings and recommendations.

Claims: There were three (3) areas of concern identified during the review of the Company's PIP claims.

- Failure, in some instances, to pay PIP claims in a timely manner.
- Failure, in some instances, to provide notices' regarding delay of payment of PIP benefits that comply with Colorado insurance law.
- Failure, in some instances, to pay PIP claims correctly.

A copy of the Company's response, if applicable, can be obtained by contacting the Company or the Colorado Division of Insurance.

MARKET CONDUCT EXAMINATION REPORT

FACTUAL FINDINGS

ALLSTATE INSURANCE COMPANY

CLAIMS
FINDINGS

Issue A: Failure, in some instances, to pay PIP claims in a timely manner.

Section 10-4-708, C.R.S., Prompt payment of direct benefits, states:

- (1) Payment of benefits under the coverages enumerated in section 10-4-706(1)(b) to (1)(c) or alternatively, as applicable, section 10-4-706(2) or (3) shall be made on a monthly basis. *Benefits for any period are overdue if not paid within thirty days after the insurer receives reasonable proof of the fact and amount of expenses incurred during that period* [emphasis added]; except that an insurer may accumulate claims for periods not exceeding one month, and benefits are not overdue if paid within fifteen days after the period of accumulation. If reasonable proof is not supplied as to the entire claim, the amount supported by reasonable proof is overdue if not paid within thirty days after such proof is received by the insurer. Any part or all of the remainder of the claim that is later supported by reasonable proof is overdue if not paid within thirty days after such proof is received by the insurer. In the event that the insurer fails to pay such benefits when due, the person entitled to such benefits may bring an action in contract to recover the same.

FILES REVIEWED FOR COMPLIANCE

Population	Sample Size	Number of Exceptions	Percentage to Sample
29	NA	28	97%

The examiners reviewed the entire population of twenty-nine (29) claim files for compliance with statutory requirements and contractual obligations. Each of these files involved personal injury protection benefits and a request for payment of services from a particular provider. The examiners only reviewed those items in the claim file that related to bills submitted by and/or paid to this specific provider during the calendar year January 1, 2003 to December 31, 2004. It appears that in twenty-eight (28) of the twenty-nine (29) files reviewed, one or more medical bills were not paid within thirty (30) days after the company had received reasonable proof of the expense incurred as required by Colorado insurance law.

Recommendation No. 1:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-708, C.R.S. In the event the Company is unable to show such proof, it should provide evidence to the Division of Insurance that it has revised its procedures to ensure that benefits are paid promptly as required by Colorado insurance law.

Issue B: Failure, in some instances, to provide notices regarding delay of payment of PIP benefits that comply with Colorado insurance law.

Regulation 5-2-8, effective 9/01/2000 and Amended Regulation 5-2-8 effective 2/01/2004, Timely Payment of Personal Injury Protection Benefits, promulgated by the Commissioner of Insurance and the Executive Director of the Department of Revenue pursuant to Sections 10-1-109, 10-4-704, 10-4-708(1.3), and 10-3-1110(1), C.R.S., states:

A. PROMPT INVESTIGATION OF PIP CLAIMS

Section 10-3-1104(1)(h)(III), C.R.S., requires insurers to adopt and implement reasonable standards for the prompt investigation of claims. An insurer is also required to promptly investigate a claim while it is accumulating claim's expense.

Whenever an insurer requires that an application for benefits form be submitted by an injured party, the insurer shall forward the form to the injured party upon notification of the injury.

When an investigation is incomplete or is otherwise continued, the insurer shall, within 30 days after the documents are received as described in C. below and every 30 days thereafter, send to the claimant or the claimant's representative, and the health care provider, if applicable, a letter setting forth the reasons additional time is needed for investigation [emphasis added].

C. REQUIREMENTS ESTABLISHING PROOF OF THE FACT AND AMOUNT OF EXPENSES INCURRED

1. Medical and Rehabilitative PIP benefits

In the usual case, for purposes of triggering the 30-day time period described in 10-4-708(1), C.R.S., the following documents are sufficient to establish reasonable proof of the fact and amount of the expenses incurred for covered medical and rehabilitative PIP benefits:

- a. A properly executed application for benefits from the PIP claimant; and
- b. An initial notice to the insurer from the provider of benefits which meets the requirements of 10-4-708.5 C.R.S., or a billing statement for the procedure or treatment which complies with 10-4-708.6, C.R.S., and includes pursuant to 10-4-708.the following:

- (1) The name and address of the treating health care provider;

- (2) The evaluation or diagnosis, and the medical procedure performed or the medical treatment provided; and
- (3) An itemized statement of charges corresponding to the medical service or treatment provided along with the corresponding dates of services

D. NOTICE REQUIREMENTS

If an insurer does not pay a claim for benefits under §10-4-706, C.R.S. within 30 days of receipt of the appropriate documents described in this regulation and as set forth in §10-4-708, C.R.S., the insurer shall immediately notify the PIP claimant or the claimant's representative and the health care provider, if applicable, of the reason(s) the claim has not been paid. If the claim has not been paid because an investigation is underway, the insurer shall document in the claim file the actions being taken to investigate the claim and the efforts being made to promptly conclude the investigation. [Emphases added]

FILES REVIEWED FOR COMPLIANCE

Population	Sample Size	Number of Exceptions	Percentage to Sample
29	NA	28	97%

The examiners reviewed the entire population of twenty-nine (29) claim files for compliance with statutory requirements and contractual obligations. Each of these files involved personal injury protection benefits and a request for payment of services from a particular provider. The examiners only reviewed those items in the claim file that related to bills submitted by and/or paid to this specific provider during the calendar year January 1, 2003 to December 31, 2004. It appears that in twenty-eight (28) of the twenty-nine (29) files reviewed the Company failed to send notice(s) that comply with Colorado insurance law. Although in most instances the Company sent generic notice(s), said notices did not contain specific reference to the claim(s)/bill(s)/date(s) of service which had not been paid within the required timeframe. These generic notices did not provide sufficient information to comply with Colorado insurance law.

Recommendation No. 2:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Regulation 5-2-8. In the event the Company is unable to show such proof, it should provide evidence to the Division of Insurance that it has revised its notices to contain specific reference information regarding claims that have not been paid, to ensure compliance with Colorado insurance law.

Issue C: Failure, in some instances, to pay PIP claims correctly.

Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, states in part:

- (1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:
 - (h) Unfair claim settlement practices: Committing or performing, either in willful violation of the part 11 or with such frequency as to indicate a tendency to engage in a general business practice, any of the following:
 - (IV) Not attempting in good faith to effectuate prompt, fair, and *equitable* settlements of claims in which liability *has become reasonably clear*; [emphasis added]

FILES REVIEWED FOR COMPLIANCE

Population	Sample Size	Number of Exceptions	Percentage to Sample
29	NA	5	17%

The examiners reviewed the entire population of twenty-nine (29) claim files for compliance with statutory requirements and contractual obligations. Each of these files involved personal injury protection benefits and a request for payment for services from a particular provider. The examiners only reviewed those items in the claim file that related to bills submitted by and/or paid to this specific provider during the calendar year January 1, 2003 to December 31, 2004. It appears that in five (5) instances the Company failed to pay claims in a proper manner. All five (5) of these exceptions resulted from the Company issuing duplicate payments to the provider.

Recommendation No. 3:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-3-1104, C.R.S. In the event the Company is unable to show such proof, it should provide evidence to the Division of Insurance that it has revised its procedures to ensure that claims are paid correctly to ensure compliance with Colorado insurance law.

SUMMARY OF ISSUES AND RECOMMENDATIONS

ISSUES	Rec. No.	Page No.
CLAIMS		
Issue A: Failure, in some instances, to pay PIP claims in a timely manner.	1	13
Issue B: Failure, in some instances, to provide notices regarding delay of payment of PIP benefits that comply with Colorado insurance law.	2	15
Issue C: Failure, in some instances, to pay PIP claims correctly.	3	16

State Market Conduct Examiners

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For

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participated in this examination and in the preparation of this report.